

REMARKS

These remarks and the accompanying amendments are responsive to the final Office Action mailed October 4, 2004 (hereinafter referred to as "the Office Action"), and the Advisory Action mailed January 10, 2005. Claims 3-23 were pending at the time of the last examination. By this amendment, Claim 9, 11-19 and 21-23 are additionally cancelled, and new Claims 24-26 are added. Accordingly, Claims 3-8, 10, 20 and 24-26 will be pending upon entry of this amendment. The applicants furthermore request reconsideration of the rejection of Claims 3-8, 10 and 20 in light of the following remarks.

Section 4 of the Office Action rejects Claims 3-5, 8-12 and 17 under 35 U.S.C. 102(e) as being anticipated by United States patent number 6,377,545 issued to Onyiagha (this patent hereinafter referred to as "Onyiagha"). The rejection is moot with regard to cancelled Claims 9, 11, 12 and 17, but stands with respect to Claims 3-5, 8, and 10, of which, Claims 3, 4 and 10 are the only independent claims still pending. Furthermore, Section 7 of the Office Action rejects Claims 13-16, 18, 19, and 20-23 under 35 U.S.C. 103(a) as being unpatentable over Onyiagha in view of United States patent number 5,570,360 (this patent hereinafter referred to as "Klausmeier"). This rejection is moot with regard to cancelled Claims 13-16, 18, 19 and 21-23, but remains with respect to Claim 20.

As recited in each of the rejected independent Claims 3, 4 and 10, the traffic control means carries out the traffic control such that a cumulative transmission volume in a traffic monitoring period defined by taking account of a proper period at which the data takes place in a burst mode, does not exceed an allowed transmission volume based on a traffic rate.

Here, "period" means "cycle", not "duration". This is clear from the specification of the present application. However, it seems that the examiner mistook "period" for "duration". That

is, it seems that the examiner intended that "duration" is an example of "period", since the current Advisory Action states "... the time period during which ATM cells (packets) arrive including performance parameters describing the duration of and intervals between...". Further, at page 2, lines 10-13 of the final office action, issued on October 4, 2004, the Office Action states "data transmission taking place in a burst mode at period proper to the data, i.e. communications traffic characterized by periods of high intensity separated by intervals of little or no utilization". If "period" is taken for "cycle", discussion should be made by using a single period (cycle), not a plurality of periods. It seems that the Office Action and Advisory Action are issued presuming that each duration in which a signal occurs in a burst mode, is a "period".

As we explained in our response of December 7, 2004, Onyiagha does not disclose a feature of the present invention of claim 3, 4 and 10, i.e. "the traffic control for received data is carried out such that a cumulative transmission volume in a traffic monitoring period (cycle) defined by taking account of a proper period (cycle) at which the data takes place in a burst mode, does not exceed an allowed transmission volume based on a traffic rate.

Klausmeier also does not disclose this feature. Therefore, independent Claims 3, 4, and 10 are not anticipated nor rendered obvious by Onyiagha and Klausmeier (either singly or in combination). Claims 5-8 and 20 depend, directly or indirectly on one of independent Claims 3 and 4, and thus are not anticipated nor rendered obvious over Onyiagha and Klausmeier for at least the reasons provided for their corresponding independent claim. Accordingly, withdrawal of the 35 U.S.C. 102(e) and the 35 U.S.C. 103(a) rejection is respectfully requested.

In case there is still confusion over the use of the term "period", Claims 24-26 are provided, which are similar to Claims 3, 4 and 10, respectively, except that the term "period" is replaced by the term "cycle". In the event that the Examiner finds remaining impediment to a

prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney.

Dated this 1st day of April, 2005.

Respectfully submitted,



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